

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
WESTERN DIVISION**

**UNITED STATES OF AMERICA**

**VERSUS**

**CRIMINAL ACTION NO. 3:05CR27**

**JOSE DELFINO HERNANDEZ GUERRERO**

**ORDER**

This cause is before the court on the defendant's Motion for Continuance [12-1]. The Court, having reviewed the motion and being otherwise fully advised in the premises, finds as follows, to-wit:

The trial of this matter is currently set for June 6, 2005. Defense counsel represents in the motion that he has a conflict due to a prior existing trial setting. Rule 16.3 of the Uniform Local Rules provides: "When the Court has set a case for trial . . . which conflicts with a court appearance of counsel in other courts, the first case having a firm setting shall control . . . ." The Court is also advised that the government does not oppose the requested continuance.

These circumstances enable the Court to exclude, pursuant to 18 U.S.C. § 3161(h)(8)(A), the period of delay from June 6, 2005 until the new trial date to be set in this matter. The time is excludable under subsection (h)(8)(A) because, given defense counsel's conflicting prior trial setting in another court, a continuance is required under the Local Rules and in order to ensure the availability of defense counsel at the trial of this cause. Therefore, the Court finds that the ends of justice served by the granting of this continuance outweigh the best interests of the public and the defendant in a speedy trial.

IT IS, THEREFORE, ORDERED AND ADJUDGED that

1. The defendant's Motion for Continuance [12-1] is GRANTED;
2. That the trial of this matter is continued until Tuesday, July 5, 2005 at 9:00 a.m. in the United States District Courthouse in Greenville, Mississippi; multiple voir dire is to be held at the same time and place;
3. That the delay from June 6, 2005 until July 5, 2005 is excluded as set out above;
4. That the deadline for filing pretrial motions is June 14, 2005;
5. That the deadline for submitting a plea agreement is June 21, 2005.

SO ORDERED, this the 28th day of April, 2005.

/s/ W. Allen Pepper, Jr.  
W. ALLEN PEPPER, JR.  
UNITED STATES DISTRICT JUDGE